



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 6, 2011

Dr. Bhavna Sharma-Lewis
Superintendent and FOIA Officer
Harrison School District 36
6809 McCullom Lake Road
Wonder Lake, Illinois 60097

RE: Pre-Authorization Request – 2011 PAC 14164

Dear Dr. Sharma-Lewis:

We have received and reviewed the written notice from Harrison School District 36 (District) of its intention to deny disclosure of certain information under section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2010)). On April 28, 2011, [REDACTED] submitted a FOIA request for the "complete personnel file on [REDACTED] Anything in her file that is public record, from the date of original hire to current date." The District seeks to redact: [REDACTED] date of birth throughout the personnel records; her comment on an application for a professional development event; and her reason for requesting an extended personal leave.

Section 7(1)(c) of FOIA exempts from inspection and copying "[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information." The exemption defines "unwarranted invasion of personal privacy" as "the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information." 5 ILCS 140/7(1)(c) (West 2010).

DETERMINATION

The District's use of the exemption in section 7(1)(c) to withhold Ms. Huff's date of birth is **approved**. We have determined that the District has met its initial burden of demonstrating that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal privacy. This type of information is highly personal by its very nature and the subject's right to privacy outweighs any legitimate public interest in disclosing this

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information. *See, e.g., Oliva v. United States*, 756 F. Supp. 105, 107 (E.D.N.Y. 1991) (holding that, under Exemption 6 of the Federal Freedom of Information Act (5 U.S.C. §552(b)(6)), "dates of birth[] are a private matter, particularly when coupled with * * * other information" and "would constitute a clearly unwarranted invasion of personal privacy"); *Texas Comptroller of Public Accounts v. Attorney General of Texas*, ___ S.W.3d ___, 54 Tex. Sup. Ct. J. 245 (2010) (state employees have a "nontrivial privacy interest" in their dates of birth under the Texas Public Information Act (*see* Tex. Gov't Code §§552.101, 552.102), which substantially outweighs the negligible public interest in disclosure).

Furthermore, the District's use of the exemption in section 7(1)(c) to withhold information contained on [REDACTED] application for a professional development event and her reason for requesting an extended personal leave is **approved**. We have reviewed the unredacted copies of the documents and we have determined that releasing this information would constitute an unwarranted invasion of personal privacy. This type of information is highly personal by its very nature and [REDACTED] right to privacy outweighs any legitimate public interest in disclosing this information. Therefore, the District has sustained its initial burden of demonstrating that this information is exempt from disclosure under section 7(1)(c).

The District also indicates that it intends to redact additional information from the records pursuant to sections 7(1)(a) and 7(1)(b) (5 ILCS 140/7(1)(a), (b) (West 2010)), as well as section 7.5(r) (5 ILCS 140/7.5(r) (West 2010)) of FOIA. Because advance approval by the Public Access Counselor is not required for the assertion of these exemptions, we make no determination at this time regarding their applicability.

If you have any questions, please contact me at (312) 814-2770. This correspondence shall serve to close this matter.

Very truly yours,

[REDACTED]

JOHN SCHMIDT
Senior Assistant Attorney General
Public Access Bureau

JS:ah

14164 Pre-auth al 7(1)(c) emp inf sd

cc: Rhona Wenk
7710 Orchard Road
Wonder Lake, Illinois 60097